

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 646 (Senator McCray)
 Budget and Taxation

School Construction - Public Charter School Facility Fund - Establishment

This bill creates the Public Charter School Facility Fund, administered by the Interagency Commission on School Construction (IAC), to provide funding to public charter schools for eligible expenses associated with public charter school facilities. The Governor must include an annual appropriation in the budget bill of \$2,000 per student enrolled in a public charter school. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures for IAC increase by \$117,100 in FY 2024 for staffing and by \$48.8 million beginning in FY 2025 to provide funding to public charter schools and to administer the fund. Special fund revenues and expenditures increase by \$48.6 million accordingly. **This bill establishes a mandated appropriation beginning in FY 2025.**

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
SF Revenue	\$0	\$48.60	\$48.60	\$48.60	\$48.60
GF Expenditure	\$0.12	\$48.80	\$48.81	\$48.82	\$48.83
SF Expenditure	\$0	\$48.60	\$48.60	\$48.60	\$48.60
Net Effect	(\$0.12)	(\$48.80)	(\$48.81)	(\$48.82)	(\$48.83)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None. Funding is provided directly to public charter schools, not local school systems.

Small Business Effect: Minimal.

Analysis

Bill Summary: The fund may be used for facilities that are either leased or owned by the public charter school and to pay eligible facility expenses, which are actual expenses incurred by a public charter school, including:

- debt service under a mortgage, bond, or other debt instrument;
- rent;
- operations;
- maintenance (including both routine and capital maintenance);
- insurance;
- usage fees; and
- any other expenses determined by IAC.

The fund consists of (1) money appropriated to the fund; (2) interest earnings; and (3) any other money from any other source.

The amount of funding provided to a public charter school each year must be equal to the eligible facility expenses that the public charter school demonstrates that it incurred during the immediately preceding fiscal year, up to \$2,000 per student. Funding must be paid directly to a public charter school and not to a local government or local school board.

A public charter school is not eligible to apply for funding from the fund after its charter has been revoked, nonrenewed, or surrendered. A public charter school may not sell, lease, exchange, give away, or otherwise transfer or dispose of any interest in real property for which it received reimbursement for debt service to acquire the property unless the Board of Public Works (BPW) gives prior written consent following at least 60 calendar days from when the public charter school gave notice of a proposed transfer or disposition. BPW may condition permission to transfer or dispose of the property on the repayment by the public charter school of the proceeds received for debt service, at BPW's discretion. Funding may not supplant any other State funding received by the public charter school.

Current Law:

Public Charter Schools

The general purpose of the Maryland Public Charter School Program is to establish an alternative means within the existing public school system in order to provide innovative learning opportunities and creative educational approaches to improve the education of students. A local board of education must disburse to a public charter school an amount of

county, State, and federal money for elementary, middle, and high school students that is commensurate with the amount disbursed to other public schools in the local jurisdiction.

The local board of education is the public chartering authority within a county. Public charter schools must be nonsectarian and, with exceptions, open to all students on a space-available basis and admit students on a lottery basis if more students apply than can be accommodated. If granted a waiver, a public charter school located within a federal military base may designate as much as 65% of its enrollment for students whose parents are assigned to the base.

Public charter schools cannot discriminate in their enrollment policies or charge tuition to students. A local school system must serve students with disabilities attending public charter schools in the same manner as the public agency serves students with disabilities in its other schools, in accordance with applicable federal and State law. A public charter school must require students to be physically present on school premises for a period of time substantially similar to that which other public school students spend on school premises.

An application to establish a public charter school may be submitted to a local board by the staff of a public school, a parent of a student who attends a public school in the county, a nonsectarian nonprofit entity, a nonsectarian institution of higher education in the State, or any combination of these. A public chartering authority may not grant a charter to a private school, a parochial school, a home school, or a school that operates fully online.

IAC advises that some charter schools are eligible for capital construction and systemic renovation funding from the State's Public School Construction Program. However, funding is available only for facilities that are owned by local school systems (and leased to the charter school) and if the funding request is submitted by the local school system in which the charter school is located.

Charter School Facilities

In general, public charter schools have right of first refusal for any land, school site, or building that is no longer needed by a local school system and county government. Specifically, if a local school board finds, with the approval of the State Superintendent, that any land, school site, or building is no longer needed for school purposes, it must inform the county commissioners or county council of that determination. Within 30 days of receiving the notice from the local school board, the county government must notify the local school board either (1) of the need to transfer the land, site, or building to the county if it is an integral part of an existing economic development plan that will significantly benefit the county or (2) that the county government has no existing plans for the land, site, or building. If the county government has no plans for the property or does not provide

notification within 30 days, the local school board must make the property available to any charter school in the district, under terms established by the local school board.

State Fiscal Effect:

Public Charter School Facility Fund

The Maryland State Department of Education advises that, during the 2022-2023 school year, 48 charter schools are operating and serving approximately 24,300 students. The number of charter schools and their total enrollment has not changed substantially in recent years.

Therefore, general fund expenditures increase by \$48.6 million annually beginning in fiscal 2025 to capitalize the fund. Special fund revenues and expenditures increase commensurately, assuming that funds are fully disbursed to charter schools each year. To the extent that charter school enrollment changes in future years, general fund expenditures (and special fund revenues and expenditures) change accordingly, but this analysis assumes stable enrollment in line with recent trends.

Fund Administration

IAC must administer the fund and oversee the disbursement of nearly \$50 million annually, which it cannot do with existing staff. As the fund may be used only to provide funding to public charter schools, general funds are needed to cover staffing costs for IAC. Although funding for charter schools is not available until fiscal 2025, the bill requires IAC to develop application procedures for the funding. Therefore, this analysis assumes that staffing is necessary beginning January 1, 2024, to prepare for the disbursement of funding in fiscal 2025.

Accordingly, general fund expenditures increase by \$117,146 in fiscal 2024, which accounts for a six-month start-up delay from the bill's July 1, 2023 effective date, as discussed above. This estimate reflects the cost of hiring one program manager and one administrator to oversee the disbursement of funding to charter schools and ensure that it is used for eligible expenses. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$102,858
Operating Expenses	<u>14,288</u>
Total FY 2024 State Expenditures	\$117,146

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Comments: IAC notes that public charter schools that receive funding for debt service may be bound to repay the amount they receive when they sell or dispose of property purchased with the loan (unless BPW releases them from that obligation).

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Charles and Garrett counties; Maryland Association of Counties; Maryland State Department of Education; Public School Construction Program; Department of Budget and Management; Board of Public Works; Baltimore City Public Schools; Baltimore County Public Schools; Department of Legislative Services

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Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510